

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Entergy Services, Inc.

Docket No. ER03-861-000

ORDER ACCEPTING AND SUSPENDING FILING AND ESTABLISHING  
HEARING  
AND SETTLEMENT JUDGE PROCEDURES

(Issued September 17, 2003)

1. On May 20, 2003, Entergy Services, Inc., as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (Entergy), filed its 2003 annual informational filing containing the 2003 rate redetermination in accordance with the annual rate redetermination provisions of Appendix 1 to Attachment H and Appendix A to Schedule 7 of its Open Access Transmission Tariff (OATT). The Commission accepts the filing and suspends it for a nominal period to be effective June 1, 2003, subject to refund, and establishes hearing and settlement judge procedures. This order benefits customers because it provides the parties with a forum in which to resolve their dispute over Entergy's 2003 annual rate redetermination.

**Background**

2. Entergy's OATT provides for an annual redetermination of rates for long-term and short-term firm point-to-point transmission service and non-firm transmission service and for network integration transmission service, based on actual data for the immediately preceding calendar year.<sup>1</sup> Entergy makes the redetermination filing on or about May 1 of

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<sup>1</sup>The annual rate redetermination formula was first established in a partial settlement approved by the Commission in Docket No. ER95-112-000. Entergy Services, Inc., Opinion No. 430, 85 FERC ¶ 61,163 (1998), order on reh'g, 91 FERC ¶ 61,153 (2000). Entergy's 2000 filing, as settled, was accepted by the Commission in a letter order issued on March 29, 2001. Entergy Services, Inc., 94 FERC ¶ 61,367 (continued...)

each year with the redetermined rates becoming effective for bills rendered on or after June 1 of that year for service during the preceding calendar month and remaining in effect for twelve months. Rates are determined according to the formula rates as defined in Entergy's OATT. Once the annual redetermination is filed with the Commission, the Commission and the customers have 120 days to review the filing.

3. Entergy made its 2003 annual rate redetermination filing on May 20, 2003, and requested an effective date of June 1, 2003. Entergy is seeking a network transmission service revenue requirement of \$327,192,331. Entergy proposes to increase its long-term firm transmission rate, from \$0.98/kW per month to \$1.03/kW per month, which is an increase of 5.1%. Entergy also proposes to increase its short-term firm transmission rate from \$1.05/kW per month to \$1.09/kW per month, which is an increase of 3.8%.

4. Entergy requests waiver of the Commission's 60-day prior notice requirement to allow an effective date of June 1, 2003.

#### **Notice, Interventions, and Protests**

5. Notice of the filing was published in the Federal Register, 68 Fed. Reg. 32,481, with protests or interventions due on or before June 10, 2003. Timely motions to intervene were filed by: Cleco Power LLC; the Lafayette Utilities System, the Louisiana Energy and Power Authority, and the Municipal Energy Agency of Mississippi (jointly); Duke Energy North America, LLC and Duke Energy Trading and Marketing, L.L.C. (jointly); TECO Power Services Corporation; the Mississippi Delta Energy Agency, the Clarksdale Public Utilities Commission of the City of Clarksdale, Mississippi, and the Public Service Commission of Yazoo City, Mississippi (jointly); the East Texas Electric Cooperative, Inc., the Sam Rayburn G&T Electric Cooperative, Inc. and the Tex-La Electric Cooperative of Texas, Inc. (jointly); Louisiana Generating LLC; and the Conway Corporation, the Cities of North Little Rock and Prescott, Arkansas, the West Memphis Utilities Commission and the Farmers Electric Cooperative Corporation (jointly); and the City of North Little Rock. Late filed motions to intervene were filed by City Water and Light Plant of the City of Jonesboro, Arkansas (CWL) and by East Texas Electric Cooperative,

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(...continued)

(2001). Entergy's 2001 filing, as settled, was accepted by the Commission in a letter order issued on August 8, 2002. Entergy Services, Inc., 100 FERC ¶ 61,177 (2002). Entergy's 2002 filing, as settled, was accepted by the Commission in a letter order issued on April 11, 2003. Entergy Services, Inc., 103 FERC ¶ 61,036 (2003).

Inc., Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (jointly) (East Texas Cooperatives). Timely motions to intervene and protests were filed jointly by the Arkansas Electric Cooperative Corporation (AECC) and South Mississippi Electric Power Association (SMEPA).

6. The protestors contend that Entergy has not explained various significant changes from the preceding year's data, which have the effect of raising rates. These changes include general plant accumulated depreciation expense, prepaid taxes and insurance, administrative and general expenses, EPRI expense, regulatory commission expense, payroll expense, and revenue credits. They also contend that Entergy has transferred various expenses from the transmission function to the distribution function without explanation, and that these transfers also have an impact on the proposed rates. The protestors also questioned the \$1.03/kW-month long-term firm transmission service rate in light of the calculated \$1.00/kW-month rate Entergy will be charging City Water and Light of the City of Jonesboro, Arkansas for the same service under Entergy's filing in Docket No. ER03-363-000.

7. The protestors request that the Commission set the matter for investigation and hearing, and make the rates subject to refund with interest. On June 25, 2003, Entergy filed an answer in response to the protests.

### **Discussion**

#### **A. Procedural Matters**

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ¶ 385.214 (2003), the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding. We will grant the the untimely, unopposed motions to intervene of CWL and East Texas Cooperatives, given their interest in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

9. Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ¶ 385.213 (2003), prohibits answers unless otherwise ordered by the decisional authority. We find good cause to accept Entergy's answer, as it aids us in the decision-making process.

#### **B. Proposed Annual Rate Redetermination**

10. Our preliminary analysis indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the rates for filing, suspend them for a nominal period, to become effective June 1,

2003, subject to refund, as requested,<sup>2</sup> and set them for hearing and settlement judge procedures.

11. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced; with respect to the last three such filings, the parties were successful in settling. To aid the parties in their settlement efforts, the hearing will be held in abeyance and a settlement judge shall be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>3</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise the Chief Judge will select a judge for this purpose.<sup>4</sup>

The Commission orders:

(A) Entergy's proposed rates are hereby accepted for filing and suspended for a nominal period, to become effective, subject to refund, on June 1, 2003.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held in Docket No. ER03-861-000 concerning the justness and reasonableness of Entergy's proposed rates as discussed in the body of this order. However, the hearing will be held in abeyance while the parties attempt to settle, as discussed in paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ¶ 385.603, the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. To the extent consistent with this order, the designated

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<sup>2</sup>See Central Hudson Gas & Electric Corporation, et al., 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992).

<sup>3</sup>18 C. F. R. ¶ 385.603 (2003).

<sup>4</sup>If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. FERC's website contains a listing of the Commission's judges and a summary of their background and experience ([www.ferc.gov](http://www.ferc.gov) – click on Office of Administrative Law Judges).

settlement judge shall have all the powers and duties enumerated in Rule 603 and shall convene an initial settlement conference as soon as practicable.

(D) Within sixty (60) days of the date of this order, the settlement judge shall issue a report to the Commission and the Chief Judge on the status of the settlement discussions. The settlement judge shall issue a report at least every sixty (60) days thereafter, apprising the Commission and the Chief Judge of the parties' progress towards settlement.

(E) If the settlement discussions fail, a presiding administrative law judge, to be selected by the Chief Judge, shall convene a prehearing conference in these proceedings, to be held within approximately fifteen (15) days of the date of the presiding judge's appointment, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.